

further after forming a film, the film is once exposed to atmospheric conditions. Additionally, the rate of film formation is different. In the present case, the forming rate is approximately 200 Å/minute.

5           Applicant wishes to reserve the ability to rebut the rejection of whether a *prima facie* case is made out under 35 U.S.C. § 102(a), in that the undersigned has not received declarations from the necessary people showing that the references disclosure was derived from the Applicant's own work.  
10   Applicant intends to file such facts in a Supplemental Amendment as soon as the declarations are received.

          Claims 1, 2, 10, and 11 stand rejected under 35 U.S.C. § 103. Applicant respectfully submits that the Kano reference does not teach or suggest the present invention. No information in  
15   the reference teaches that it will inherently generate the same nitrogen martensite  $\alpha'$  phase. Applicant respectfully submits that the Kano reference discloses a substrate temperature which is less than 200°. Further, Kano varies the target voltage; however, this does not mean that Kano generates a range of  
20   electron densities which will overlap or encompass the same film, as in the present invention. Because electron densities depend on a number of conditions (for example, total pressure, distance of the electrode, flow rate, etc.) the conditions described in

the Kano reference and in the present invention are vastly different.

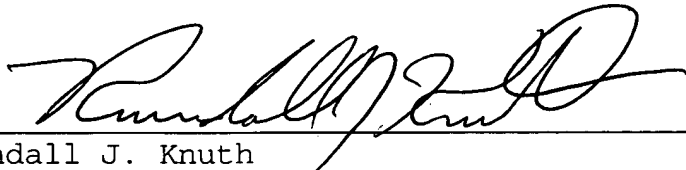
Applicant respectfully requests the Examiner to withdraw the rejection.

5       The claims stand rejected under the judicially created doctrine of obviousness type double patenting, as being unpatentable over Claims 2-20 of co-pending application 08/765,836. Enclosed herewith please find a terminal disclaimer to moot this rejection.

10       Applicant respectfully requests the Examiner to withdraw all of the rejections and forward a notice of allowability to the undersigned.

If the Examiner has any questions or comments that would speed prosecution of this case, he is invited to call the undersigned at 219/485-6001.

Respectfully submitted,

  
Randall J. Knuth  
Registration No. 34,644

RJK/jrw

Encs: Terminal Disclaimer  
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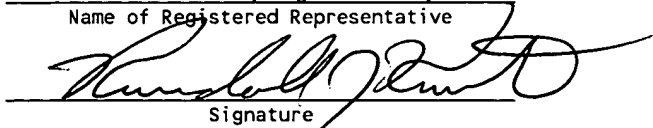
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Hon. Commissioner of Patents and Trademarks, Washington, D.C. 20231, on: May 7, 2001.

Randall J. Knuth, Regis. No. 34,644

Name of Registered Representative

  
Signature

May 7, 2001

Date